**IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL**

Chapter VIII, Rule 32(2) (b)
Description of case

**Writ Petition No. 291 of 2005 (S/B)**

Date of decision: 11th November, 2005

A.F.R. (Approved for Reporting)

Not Approved for Reporting

Date Initials of Judge

Note: Bench Reader will attach this as the top of first page of the judgment when it is put before the Judge for signature.

**IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL**

**Writ Petition No. 291 of 2005 (S/B)**

1. Dr. B.S. Burfal,
   Principal Chief Conservator of Forests,
   Uttaranchal.
2. Smt. Veena Sekhri,
   Chief Conservator of Forests,
   57, Rajpur Road, Dehradun,
   Uttaranchal. …..... Petitioners

Versus

1. Public Service Tribunal,
   25 A/II, Vasant Vihar,
   Dehradun, Uttaranchal.
2. Nain Singh,
   S/o Sri Radhey Shyam,
   Village and Post Office Timli (Herbartpur),
   District Dehradun, Uttaranchal. …..… Respondents

Mr. Lalit Kumar, Advocate for the petitioners.

**JUDGMENT**

**Coram: Hon. Cyriac Joseph, C.J.**
**Hon. P.C. Pant, J.**

**CYRIAC JOSEPH, C.J. (Oral)**

1. Disciplinary action was initiated against the second respondent Nain Singh who was a Forest Ranger in the Forest Department of the State of Uttar Pradesh. On culmination of the disciplinary proceeding, he was dismissed from service on 22.06.2000 by the Chief Conservator of Forests. Against the order of dismissal, he filed an appeal before the Principal Chief Conservator or Forests, but the said appeal was dismissed on 16.07.2001. Challenging the orders passed by the Chief Conservator of Forest and the Principal Chief Conservator of Forests, the second respondent filed Claim Petition No. 172 of 2001 before the Public Service Tribunal, Uttaranchal. By judgment dated 08.02.2005, the Tribunal set-aside the orders passed by the Chief Conservator of Forests and the Principal Chief Conservator of Forests and granted all consequential benefits to the second respondent.

2. Though the State of Uttaranchal along with the Principal Chief Conservator of Forests and the Chief Conservator of Forests filed Writ

Petition No. 231 of 2005 (S/B) in the High Court of Uttaranchal challenging the judgment of the Public Service Tribunal, the said writ petition was dismissed by the High Court. No appeal has been filed against the judgment of the High Court till date. Thus, the judgment dated 08.02.2005 of the Tribunal has become final.

3. Since the second respondent was not reinstated in service despite the judgment setting aside the order of dismissal and the appellate order confirming the order of dismissal, he filed Contempt Petition No. C/77/2005 before the Public Service Tribunal. Dr. B.S. Burfal, Principal Chief Conservator of Forests and Smt. Veena Sekhri, Chief Conservator of Forests of the State of Uttaranchal were impleaded as respondents in the contempt petition. Both of them filed counter affidavits stating that there is no post of Forest Ranger available to accommodate the second respondent and that unless an additional post is created by the State Government, the second respondent cannot be accommodated in the Forest Department of the State of Uttaranchal as Forest Ranger and therefore, they are unable to reinstate the second respondent in service in compliance with the judgment of the Tribunal. The said explanation of the alleged contemnors was not found acceptable by the Tribunal and the Tribunal, by order dated 25.10.2005, held that the judgment of the Tribunal must be complied with. In the said order, the alleged contemnors were directed to appear in person before the Tribunal on 17.11.2005 to explain personally with regard to the compliance of the judgment of the Tribunal and to show cause as to why they should not be punished for contempt of the Tribunal's order. However, the respondents have been given option to comply with the order of the Tribunal in the meantime and in that case, they need not appear before the Tribunal in person. Aggrieved by the said order dated 25.10.2005 of the Tribunal, the alleged contemnors have filed this writ petition.

4. Having heard Mr. Lalit Kumar, learned counsel for the petitioners and having considered the materials placed on record, we do not find any merit in this writ petition. We agree with the learned Tribunal that the explanation offered by the alleged contemnors for

non-compliance with the judgment of the Tribunal is not acceptable. When the second respondent was dismissed from service by the Chief Conservator of Forests and when the said order of dismissal has been confirmed in appeal by the Principal Chief Conservator of Forests and when both the original order of dismissal and the appellate order have been set-aside by the thy Tribunal and when the judgment of the Tribunal has become final, the Chief Conservator of Forests who dismissed the second respondent from service, is legally bound to reinstate the second respondent in service and to restore the position obtained before the impugned dismissal from service. The alleged non-availability of a post for accommodating the second respondent is no excuse for refusing to reinstate him in service. If there is no open vacancy available to accommodate the second respondent, there are several options available to the writ petitioners. Vacancy can be made available for the second respondent either by creating additional or supernumerary post by the competent authority or by reverting the junior-most officer in the cadre of Forest Ranger or by discharging him from service for want of post in accordance with law. Instead of resorting to such possible methods, the petitioners have approached this Court invoking the jurisdiction of this Court under Article 226 of the Constitution of India. This Court cannot be a party to any attempt to undermine the authority of a Court or a Tribunal. Every officer of the State, howsoever high he or she may be, is bound to implement the orders of Courts and Tribunals which have become final. Any hyper-technical stand or lame excuses cannot justify the attempt to disobey the order of the Tribunal. The petitioners have still time to comply with the order of the Tribunal as observed above and to report compliance to the Tribunal on 17.11.2005, in which event, they are not required to appear before the Tribunal in person.

5. In the above circumstances, the writ petition is dismissed.

**(P.C. Pant, J.)** **(Cyriac Joseph, C.J.)**
**11.11.2005** **11.11.2005**

**G**